

Appl. No. : 10/608,807
Filed : June 27, 2003

REMARKS

Upon entry of the following amendment, Claims 49-52 remain pending.

Claim 52 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claims 49-52 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 17-38 of U.S. Patent No. 6,606,866.

Claims 49-52 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 49-72 of U.S. Patent No. 6,539,725 in view of U.S. Patent No. 5,544,487.

Rejection of Claim 52 under 35 U.S.C. § 112

Claim 52 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner points out that “[i]t is unclear how claim 52 further limits claim 49, from which it depends. All the limitations of claim 52 are found in claim 49.”

Applicant has amended Claim 52 to recite that “both at least one of the first and second heat exchangers are formed in segments to provide the thermal isolation in the direction of fluid flow.” No new matter has been added. Applicant respectfully submits that this amendment overcomes the Examiner’s rejection and that amended Claim 52 is now in condition for allowance.

Rejection of Claims 49-52 under obviousness-type double patenting

Claims 49-52 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 17-38 of U.S. Patent No. 6,606,866. Claims 49-52 also stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 49-72 of U.S. Patent No. 6,539,725 in view of U.S. Patent No. 5,544,487.

In response to these rejections, Applicant has submitted herewith the Terminal Disclaimer over U.S. Patent Nos. 6,606,866 and 6,539,725. Therefore, Applicant submits the present rejections are now moot.

Appl. No. : 10/608,807
Filed : June 27, 2003

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Dec. 22, 2004

By:


Josue A. Vilalta
Registration No. 54,511
Attorney of Record
Customer No. 20,995
(949) 760-0404

H:\DOCS\UXV\JXV-1930.DOC
121304